

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-213423

DATE: April 10, 1984

MATTER OF: Easton Box Company

DIGEST:

Where a solicitation for coin carrier boxes required samples to be submitted which conform to the specifications listed in the solicitation, the agency properly rejected as nonresponsive a bid which was accompanied by a sample that did not meet those specifications.

Easton Box Company (Easton) protests the rejection of its bid for two-coin carrier boxes for Olympic commemorative coins as nonresponsive under invitation for bids (IFB) No. BM-83-31 issued by the Department of the Treasury (Treasury).

We deny the protest.

The IFB provided that bid samples were required and would be evaluated to determine compliance with the characteristics listed in the solicitation. The specifications required that the box was to be:

"[r]ectangular shaped set up box, with OD 6" x 3-3/8" x 3/4" (+ 1/32") . . . [and it must] contain two-die-cut coin wells--one to hold encapsulated coin with diameter of 1.190" and the other to hold encapsulated coin with diameter of 1.615""

The Treasury determined Easton's bid to be nonresponsive because its bid sample: (1) contained two coin wells for the large coin, as opposed to one well for the large coin and one well for the small coin, and (2) measured by its outer dimensions 6-5/32" x 3-19/32" x 13/16," it exceeded the tolerance limit of 1/32" by 1/8" on the length, by 3/16" on the width, and by 1/32" on the height.

As to the dimensions of the two coin wells, Easton argues that the Treasury's primary concern was the quality

028516

deviation from the specified dimensions in its bid sample should be waived as a minor informality. Easton also contends that it stated to a procuring official that it would build dies to size for the proper wells, but for sample purposes would "rough-cut" (i.e., cut by hand, instead of cutting with dies) the wells, and that the procuring official replied that rough-cut samples were acceptable.

The Treasury asserts that, while its procuring official stated that rough-cut samples were acceptable, the official did not state or imply that any size wells other than those stated by the specifications would be acceptable.

Where a solicitation lists definitive specifications and requires that bid samples strictly comply with those specifications, a sample that does not so comply renders a bid nonresponsive. Cherokee Leathergoods, Inc., B-205960, August 13, 1982, 82-2 CPD 129. The failure of a bid with bid samples to meet salient characteristics is, therefore, a proper ground for bid rejection and it is improper for an agency to waive such a requirement. Elwyn Institutes, B-211000, August 2, 1983, 83-2 CPD 158. Furthermore, we have rejected arguments that alleged minor deviations from bid sample requirements can be waived for correction in production. See Cathey Enterprises, Inc., B-194334, June 13, 1979, 79-1 CPD 418; Airways Industries, Inc., United States Luggage Corp., B-190093, August 14, 1978, 78-2 CPD 115.

Here, the specifications required that the coin wells be of specific dimensions and stated that bid samples must comply to those specifications. Further, the record indicates that the Treasury's procuring official advised Easton only that it could rough-cut the wells for its sample, not that it could cut wells of dimensions other than those stated in the specifications and then correct the sizes of the wells during production.

Since Easton's bid sample failed to conform to the specifications for the size of the coin wells, Easton has not unequivocally offered to provide the item requested in total conformance with the specifications, which is the test in determining responsiveness. See HSQ Technology, B-208557, December 21, 1982, 82-2 CPD 560. Since the bid was not responsive on that basis and could not be accepted, we need not consider the other area of alleged nonconformance.

The protest is denied.

for *Milton J. Aroskar*
Comptroller General
of the United States